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09/904,385	07/12/2001	Pierre-Guillaume Raverdy	50P4434/1587	1619

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Simon & Koerner LLP
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Cupertino, CA 95014

EXAMINER

MARKS, CHRISTINA M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/904,385

Applicant(s)

RAVERDY ET AL.

Examiner

C. Marks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: On page 14, line 12;
5 the download module is referred to as element 324. The actual element number is 322.
Furthermore, on line 14, this error is again repeated. On page 15, line 9, the game module is
referred to as element 334. The actual element number is 332. On page 20, line 9, the upload
module is referred to as element 624. The actual element number is 622.

Appropriate correction is required.

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Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every
feature of the invention specified in the claims. Therefore, the audio headsets must be shown or
15 the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office
action to avoid abandonment of the application. The objection to the drawings will not be held
in abeyance.

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5

Claim 43 rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (US Patent No. 5,779,549).

10 In US Patent No. 5,779,549 Walker et al. has created a system and a method for supporting a distributed electronic tournament (Abstract, line 1) or “electronic game” such as team play (Column 9, line 66), dexterity games (Column 10, line 13), golf (Column 10, line 33), trivia (Column 10, line 43), along with many other game formats that lend themselves to electronic online competition (Column 10, lines 9-11). This system is comprised of a central controller, which manages the tournament services and provides access only to users who have paid the required entry fee (Abstract, lines 4-9),
15 thus restricting right of entry to the game not only in this manner but the system also prevents those players not qualified to play from participating in a certain tournament (Column 8, lines 55-56). Furthermore, the system incorporates one or more user devices by means of I/O devices connected to the central controller (Abstract, lines 1-4) through a connection such as a wireless telecommunication network (Column 5, lines 21-22).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

5 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 5-6, 9, 11-23, 25-26, 29, and 31-42 are rejected under 35 U.S.C. 103(a) as

10 being unpatentable over '549 in view of Walker et al. (US Patent No. 6,168,522)

Regarding claims 1 and 21, '549 has created a system and a method for supporting a distributed electronic tournament (Abstract, line 1) or "electronic game" such as team play (Column 9, line 66), dexterity games (Column 10, line 13), golf (Column 10, line 33), trivia (Column 10, line 43), along with many other game formats that lend themselves to electronic online competition (Column 10, lines 9-11). This system is comprised of a central controller, which manages the tournament services and provides access only to users who have paid the required entry fee (Abstract, lines 4-9), thus restricting right of entry to the game not only in this manner but the system also prevents those players not qualified to play from participating in a certain tournament (Column 8, lines 55-56). Furthermore, the system incorporates one or more user devices by means of I/O devices connected to the central controller (Abstract, lines 1-4) through a connection such as a wireless telecommunication network (Column 5, lines 21-22). As a means for a player to pay an entry fee, '549 has incorporated ability to electronically

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communicate an electronic fund transfer, such as through funds from a bank account
(Column 14, lines 52-57).

In US Patent No. 6,168,522, Walker et al. teaches that it would be desirable to
allow fund or "ownership" transfer of balance between two parties for such reasons as
5 two partners playing in a game and one runs out of money. With ownership transfer
available between two parties, one could transfer part of their balance to the other to
allow the other to continue play (Column 5, lines 15-29) without interruption.

In regards to claims 2 and 22, '549 has defined said I/O devices as a video gaming
console, a personal computer, or a handheld electronic device and the like (Column 5,
10 lines 12-15).

In regards to claims 3 and 23, '549 incorporates a parameter of entry fee that
restricts access to the particular tournament or electronic game (Column 6, 43-45). In
another circumstance of restriction, the game will restrict one or more participants in a
specified event if they have not qualified to participate (Column 8, lines 55-56).

15 In regards to claims 5 and 25, the listings provided are a generally accepted list of
well-known parts and systems that a computer needs to function. Applicant admits in
specification that these parts are only one embodiment of the user devices (page 10, lines
18-19) and alternate embodiments may readily be implemented using various
components and configurations in addition to, or instead of, those discussed in
20 conjunction with the embodiment (page 10, lines 26-28) thus noting that the specifics of
what comprises the device are not critical to the structural makeup. In reference to the
components of the device memory, Applicant admits same facts in that this is only one

embodiment of device memory (page 13, line 6) and alternate embodiments exist and may readily include various other components in addition to or in place of the components listed in the embodiment (page 13, lines 15-18) thus noting that the specifics of what comprises the device are not critical to structural makeup and that all these parts listed are so well known in the art that they may be readily substituted for other similar parts. Thusly, they are not inherent for operation and their use would have been obvious to one skilled in the art at the time of invention.

In regards to claims 6 and 26, the listings provided are a generally accepted list of well-known parts and systems that a computer needs to function. Applicant even states in specification that these parts are only one embodiment of the event server (page 17, lines 17-18) and alternate embodiments may readily be implemented using various components and configurations in addition to, or instead of, those discussed in conjunction with the embodiment (page 17, lines 24-26) thus noting that the specifics of what comprises the device are not critical to the structural makeup. In reference to the components of the server memory, Applicant admits that this is only one embodiment of server memory (page 19, line 4-5) and alternate embodiments exist and may readily include various other components in addition to or in place of the components listed in the embodiment (page 13, lines 13-15). This admission notes that the specifics of what comprises the device are not critical to structural makeup and that all these parts listed are so well known in the art that they may be readily substituted for other similar parts. Thusly, they are not inherent for operation and their use would have been obvious to one skilled in the art at the time of invention.

In regards to claims 9 and 29, '549 details the utilization of user devices to access and register with said game service. The system allows the player to enter the game format that they prefer to play via the associate I/O device. This preference is the communicated to the central server, which registers the user. When the game is about to begin, the server sends a message to the player in order to remind the player that the game is about to begin, thus allowing the player to access the game at the desired time and not accidentally miss the event (Column 14, lines 3-9). Furthermore, '522 teaches that the server can provide a list of players who are currently using gaming devices on the network (Column 5, lines 39-41).

In regards to claims 11 and 31, '549 details the utilization of user devices to pay the entry fees that are required for participating in the tournament. '549 states the preferred embodiment includes steps responsive to payment of an entry fee by a player allowing the player to participate in a particular tournament via an associated I/O device (Column 6, lines 3-6).

In regards to claims 12 and 32, '549 also shows that tournaments may be held contemporaneously with a live event (Column 12, lines 50-51) thus incorporating gambling activities of the electronic gaming not only to tournaments but to real-time activity.

In regards to claims 13 and 33, '549 incorporates a prize system into the gaming environment. The central controller accesses the tournament database to retrieve the pre-established performance levels for the awarding or prizes. The central controller then reviews the performance levels of each player relative to the requirements for awarding

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prizes and then updates the winning player's database record to reflect that awards have been allocated to them. The central controller then distributes the prizes to the user. (Column 7, lines 61-67; Column 8, lines 1-5).

5 In regards to claims 14 and 34, '522 teaches to allow the transfer procedure to utilize the source user device (gaming machine) to transfer the remaining amount or "certificate" to a remote or target gaming device (Abstract, lines 7-11).

10 In regards to claims 15 and 35, the Applicant defines a certificate repository module as effective means for storing, managing, and accessing certificates—otherwise, a database. '549 incorporates the usage of a database to store player information that is generated as the player participates in games. This includes information regarding player payments and "rights." When a payment is made, the player's record in the database is updated to reflect the change (Column 6, lines 51-55). Though, a database of user information is absolutely inherent to the proper function of '522 it is not disclosed. However, '522 does disclose that the gaming device the user is playing can be connected 15 to a network to allow the user to access the account information, including the credits and certificates (Column 4, lines 6-10). That which is disclosed between these two arts in addition to what is well-known in the art dictates that it is obvious that '522 must use a database and that this database stores data about the user and the user may at anytime access their own data, including information about there assets or certificates.

20 In regards to claims 16-20, and 36-40, Applicant states that this negotiating of trading may even be done face-to-face (page 27, line 19) as well as locating and connecting with a trading partner (page 27, 16-17). Therefore, because of this it can not

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be claimed that negotiating satisfactory trade terms and formally accepting these terms are critical to the technical functionality of this invention as it has been shown in specification that users can do this with just a mere discussion. '522 also shows in the transferring of rights from one user to another that balance or "rights" to the certificate are added to that of the receiving user and subtracted from the giving user. Thus, both accounts are updated to reflect the change in ownership. In regards to the security features, the Applicant states in the specification that if trading partners determine that adequate security provisions for transfers are not present they may download appropriate encryption software from the event server or another entity (page 28, lines 4-6) thus noting that there is prior art in which users can download security patches and devices if security is not up to means. The use of transferring data or "possessions" between users is a well-known practice and Applicant states in specification that the system user may perform the transfer procedure in any effective matter (page 27, line 11) thus admitting that there are more than one efficient transfer procedures well known in the art and therefore the incorporation of such a procedure is not novel.

In regards to claim 41, '549 use both software and hardware to implement the method steps (Abstract, line 23-24). It is shown above that the main control operation of the central controller is managing the game and the main control operation of the I/O devices is communicating with the central control. '549 further incorporates the functionality of these devices as being performed by program instructions in stating that the control of the I/O devices and the central controller are typically incorporated into

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software code (Column 5, lines 63-65), thus allowing the system to be managed by and communicated with through software.

In regards to claim 42, the stated means for managing a game service is that of the said central controller and the means for communicating with said controller is that of said I/O devices.

It would be obvious to one skilled in the art at the time of invention to further the basic of funds transfer shown by '549 to the more advanced and elaborate fund transfer (and all features) of '522. By allowing users to not only transfer funds from a bank account as an entry fee, but also transfer funds from one another an entire new level of user-friendly convenience is added is incorporated into the system. By adding the teachings of '522 to '549, users would then have further capabilities of settling debts between one another, transferring funds to a team member during team play or transferring ownership rights to the game to another user for a variety of reasons.

Furthermore, it would have been obvious to incorporate the functionality of providing a list of users to those who are currently active on the gaming system as shown in '522 in order to provide a means to allow active players to be able to "see" who is currently active to facilitate communication between said players and also allowing those who wish to transfer to "see" if their desired trading partner is currently active.

Claims 4 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over '549 in view of '522 in further view of Wiltshire et al.

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What '549 and '522 disclose, teach, and/or suggest has been discussed above and is incorporated herein.

It is well known in the art to use combinations of LAN and Internet to access a server from a remote terminal. In solidifying this point, Wiltshire et al. (US Patent No. 6,409,602) teaches that communications pathways for a computer gaming system can be any combination (therefore including all direct and indirect paths) of electrical cables, optical fibers, RF links, IR links, and protocol interfaces such as LAN and WAN (Column 4, lines 1-3). Wiltshire et al. further includes global communication pathways, the Internet and the World Wide Web (Column 5, lines 31-32). Because it is well known in the art how information travels along a network and with the teachings of Wiltshire et al., it would have been obvious to one skilled in the art at the time of invention to incorporate the versatile and combination networks of Wiltshire et al. to the wireless networks of '549 and the transferring capability of '522 to create various means in which to construct a network and transfer rights between users while retaining the convenience of portability with a wireless base.

Claims 7 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over '549 in view of '522 in further view of Horstmann et al.

What '549 and '522 disclose, teach, and/or suggest has been discussed above and is incorporated herein.

'549 provides means for users to register for the game of their choice by communicating through the I/O device to the central controller of the game service (Column 14, lines 3-5). The central controller of the game service manages the

5 tournament (Abstract, line 4). In US Patent No. 5,947,825 Horstmann et al. teaches that
in a system of interconnected video games a players auditory senses can be stimulated by
incorporating a microphone into each user device in which the player may talk bi-
directionally with other players and a pair of loudspeakers in which the player will be
10 able to hear (Column 1, lines 49-51). Furthermore, '549 also shows of a way to credit
user accounts when they have been awarded prizes based upon meeting a certain set of
pre-selected requirements. The central controller accesses the tournament database to
retrieve the pre-established performance levels for the awarding or prizes. The central
controller then reviews the performance levels of each player relative to the requirements
15 for awarding prizes and then updates the winning player's database record to reflect that
awards have been allocated to them. The central controller then distributes the prizes to
the user. (Column 7, lines 61-67; Column 8, lines 1-5). Finally the event server of '549
is capable of receiving uploads from user devices in the sense that they can upload
certificates from bank accounts or credit cards in order to assure that they will be allowed
20 to participate in said tournament (Column 7, 10-15).

It would also be obvious to one skilled in the art at the time of invention to
incorporate the communication system described by Horstmann et al. to the basic
communication of simple transfers as taught by '522 to the overall gaming system shown
by '549 to bring a more sophisticated level of communication between gaming users in
25 which they could actively talk in real time, thus speeding up the process of any pending
transaction, such as a trade, yet still be able to remotely, without having to actually meet
face-to-face.

Claim 8 and 28 are rejected under 35 U.S.C. 103a) as being unpatentable over
‘549 in view of ‘522 in further view of Ginter et al.

What ‘549 and ‘522 disclose, teach, and/or suggest has been discussed above and
5 is incorporated herein.

While it would have been inherent for operation in ‘522 to be comprised of the
listed elements in order for the transfer function to work properly and efficiently, it is
specifically shown by Ginter et al. (US Patent No. 6,389,402) that these elements are
used.

10 Ginter et al. teaches about providing systems and methods for secure transaction
management and electronic rights protection. The reference instructs that a virtual
distribution environment (VDE) should provide and enforce a secure chain of handling
and control to protect rights of various participants in electronic commerce or other
electronic-facilitated transactions (Abstract, lines 1-14), thus including gaming.

15 Ginter et al. further teaches the “complete” VDE container is a logical object
structure (Column 127, lines 38-39) and includes a header that identifies the object and
identifies one or more owners of the rights to the object (Column 128, lines 1-2).
Furthermore, these VDE “certificates” also carry information describing credit history
details, summary of authorizations, usage history (such as a transaction history or
20 summary information) (Column 236, lines 20-26). A chronological listing of these
elements would have been obvious to one skilled in the art and therefore is not a novel
addition to Ginter et al. Furthermore, fields can also be incorporated to include a user ID

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field, an object ID field, a field containing reference [to user] or other identification to a “right” and/or a user rights table (Column 112, lines 11-18). An authentication manager/secure communications manager is also provided for the VDE (Column 96, lines 13-15). To prevent unauthorized persons from accessing the certificates, encryption of secure databases may also occur to ensure VDE-provided security (column 101, lines 1-2). Control paths can also be set up to control parameters of data based upon user desires. Such a parameter could be time spent on video game, thus producing a digital object parameter related to electronic gaming while at the same time using the said security to monitor who has access to change such parameter on object within the certificate (Column 266, lines 52-67; Column 267, lines 1-5).

It would have been obvious to one skilled in the art at the time of invention to incorporate the ideas of Ginter et al. for a highly secure and versatile protection of electronic rights to the ideas of ‘549 and ‘522 for use in the trading of electronic rights relating to a gaming environment in order to provide users with a means to securely and safely trade rights between one another with confidence in the security of such transaction. Furthermore, Applicant notes in specification that data may be an optional element and may not be included as part of the certificate (page 24, lines 1-2) and certificate may include any information appropriate (page 23, lines 19-20). Thus the actual elements and data of the certificate are not critical to the overall functionality of the element.

Claims 10 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over ‘549 in view of ‘522 in further view of Horstmann et al.

What '549 and '522 disclose, suggest, and/or imply has been discussed above and is incorporated herein.

In US Patent No. 5,947,825, Horstmann et al. teaches that in a system of interconnected video games a players auditory senses can be stimulated by incorporating a microphone into each user device in which the player may talk bi-directionally with other players and a pair of loudspeakers in which the player will be able to hear (Column 1, lines 49-51). Furthermore, Applicant states in specification for own invention that sound module may preferably include a headset device to be worn by user thus implying that the usage of the headset is non-critical and only preferable thus the substitution for a loudspeaker is of little consequential difference and obvious to one skilled in the art.

It would also be obvious to one skilled in the art at the time of invention to incorporate the communication system described by Horstmann et al. to the basic communication of simple transfers as taught by '522 and gaming system shown by '549 to bring a more sophisticated level of communication between gaming users in which they could actively talk in real time, thus speeding up the process of any pending transaction, such as a trade, yet still be able to remotely, without having to actually meet face-to-face.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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US Patent No. 5,280,426 (see Abstract: "Game purchase funds and game winning funds are transferred between central unit and agent.")

US Patent No. 5,326,104 (see Abstract: "central game controller to which a number of stations are connected." "The patron transmits an electronic "ticket" to central game controller
5 when play begins." "The central game controller transfers credits to the accounts of winning players." See Column 1, lines 13 – 17 "critical (restricted) files in central computer are set up to indicate tampering", lines 45 – 47 "gaming system including a central game controller which conducts a game, maintains player accounts, and processes wagers electronically.)

US Patent No. 5,083,800 (See Column 1, lines 51-61 "a game of skill or chance playable
10 by several participants remote from each other in conjunction with a common event comprising a computer game where a personal computer associated with each user is connected to a network terminal which receives data.

US Patent No. 6,351,773 (See Column 1, lines 7-10, "Methods for providing restricted access of network devices to subscription services." Column 5, line 18, "wireless connection."
15 Column 32, lines 3-4 and 20-23, "servers are responsible for receiving user connection requests, authenticating the user, and then returning all necessary information for the service, such as a game."

US Patent No. 5,575,474 (See Abstract, "system allows people to place, accept, and settle bets for the purpose of communication. The system cuts out the middleman, allowing
20 bettors to bet with each other directly.")

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Friday (7:30AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, V. Martin-Wallace can be reached on (703)-308-1148. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

10

C. Marks

C. Marks
July 22, 2002

Michael O'Neill

MICHAEL O'NEILL
PRIMARY EXAMINER